

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MARC A. OLSON

Plaintiff,

- v -

TOBIAS BERMAN,

Defendant.  
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**REPORT & RECOMMENDATION**

CV 06-1294 (CBA) (VVP)

By order dated November 8, 2006, counsel for the parties were required to appear in this court for an initial conference on December 14, 2006 at 11:00 am. No appearances were made by counsel for either party. As a result, the court issued an order on January 5, 2007, directing counsel for the plaintiff to advise the court forthwith in writing as to the status of the case. That order also informed counsel that “[f]ailure to respond to this request shall be grounds for dismissal for want of prosecution.” (Docket entry no. 5.) Counsel for the plaintiff has thus far failed to respond to that order. Nor has the court received any other communication from counsel regarding this case.

Accordingly, the undersigned hereby **REPORTS** and **RECOMMENDS** that this action be dismissed for want of prosecution. *See Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962); *Hoffman v. Wisner Mfg. Co.*, No. CV-95-1058 (ADS), 1996 WL 296938, at \*3-4 (E.D.N.Y. June 1, 1996).

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Any objections to the Report and Recommendation above must be filed with the Clerk of the Court within 10 days of receipt of this report. Failure to file objections within the specified time waives the right to appeal any judgment or order entered by the District Court in reliance on

this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see, e.g., Thomas v. Arn*, 474 U.S. 140, 155, 106 S.Ct. 466, 474, 88 L.Ed.2d 435 (1985); *IUE AFL-CIO Pension Fund v. Herrmann*, 9 F.3d 1049, 1054 (2d Cir. 1993); *Frank v. Johnson*, 968 F.2d 298 (2d Cir.), *cert. denied*, 113 S. Ct. 825 (1992); *Small v. Secretary of Health and Human Serv.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam).

Viktor V. Pohorelsky  
VIKTOR V. POHORELSKY  
United States Magistrate Judge

Dated: Brooklyn, New York  
February 9, 2007